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EXAMINER

NGUYEN, LUONG TRUNG

ART UNIT PAPER NUMBER

2612

DATE MAILED: 01/16/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/150,010

Applicant(s)

MATAMA, TORU

Examiner

LUONG T NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/07/2003 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-17 filed on 8/25/2003 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

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provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 1, 17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1, 4, respectively of U.S. Patent No. 6,473,198 in view of Okamoto (US 5,475,509).

Application claim 1 is identical to patent claim 1. The only different is that patent claim 1 fails to specifically disclose display means for displaying an image carried by the image data supplied from said source of image data supply. However, Okamoto discloses display unit 72 for displaying an image supplied from scanner 12, figure 1, column 3, lines 5-13, column 4, lines 5-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the application claim by the teaching of Okamoto in order to let the user has the ability to view the image. This let the user can edit the image to obtain a desired image.

Application claim 17 is identical to patent claim 4. The only difference is that the chains of dependency for the two sets of claims are different. For example, application claim 17 is directly dependent on application independent claim 1 while patent claim 4 is dependent on patent claims 3, 2, 1.

Claim Rejections - 35 USC § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 12, 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Shinsky et al. (US 6,285,398).

Regarding claim 1, Shinsky et al. disclose an image processing apparatus comprising means for receiving image data (USB interface 202, figure 3, column 5, lines 10-15) from a source of image data supply (video camera 100, figure 3, column 5, lines 10-15); image processing means for performing necessary image processing on the received image data to produce output image data (host computer 200 includes the software and components necessary to process and convert the received data, figures 3, 4A-4B, column 5, lines 18-50); display means for displaying an image carried by the image data supplied from said source of image data supply (display 36, figure 3, column 1, lines 50-55); designating means for designating at least one principle part of the image displayed (keyboard 38 or mouse 40, figure 3, column 2, lines 6-13); setting means for setting image processing conditions primarily in accordance with information about said at least one principal part of the image designated by said designating means (A user can view the video images, set a proper white balance for the images by selecting a white area within the picture and view the histogram; the proper white balance within the image is achieved by scaling on the R and B components, which is performed at the block 332, figures 4A-4B, column 3, lines 50-55, column 4, lines 20-27, column 5, lines 18-25, column 7, lines 13-67, column 9, lines 40-55); wherein said image processing means performs said

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necessary image processing under said image processing conditions set by said setting means (figures 4A-4B, column 3, lines 50-55, column 4, lines 20-27, column 5, lines 18-25, column 7, lines 13-67, column 9, lines 40-55).

Regarding claim 2, Shinsky et al. disclose a mouse or a keyboard (mouse 40 or keyboard 38, figure 3, column 2, lines 6-13).

Regarding claim 12, Shinsky et al. discloses wherein said display means is of a type that also displays said at least one principal part designated by said designating means (a user uses mouse 40 to manipulate graphic images on the display 36, column 2, lines 10-13) which further includes modifying means that modifies said at least one principal part displayed by said display means (the proper white balance is achieved at block 332, figure 4A, column 7, lines 15-20).

Regarding claim 17, Shinsky et al. disclose wherein said image processing means performs at least one of image processing selected from the group consisting of sharpness enhancement, dodging, contrast correction and color modification as necessary image processing (contrast and colors are adjusted, column 9, lines 50-56).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinsky et al. (US 6,285,398) in view of Ejima (US 6,188,432).

Regarding claim 3, Shinsky et al. fail to specifically disclose a light pen and said display means is a display for inputting with said light pen. However, Ejima discloses an information processing apparatus which includes a light pen 46 and touch tablet 6A (figure 4, column 4, lines 64-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Ejima in order to make it easy for the user to edit the image displayed on the display.

Regarding claim 4, Shinsky et al. fail to specifically disclose a touch panel. However, Ejima discloses an information processing apparatus which includes touch tablet 6A (figure 4, column 4, lines 64-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Ejima in order to make it easy for the user to edit the image displayed on the display.

Regarding claim 5, Shinsky et al. fail to specifically disclose means for obtaining shooting information of camera corresponding to said image data supplied from said source of image data supply. However, Ejima discloses an information processing apparatus in which date and time (shooting information) of recording image is recorded and displayed with thumbnail 52 (figure 5, column 8, lines 35-26). Therefore, it would have been obvious to one of ordinary skill

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in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Ejima in order to let the user easier to select an image to reproduce.

Regarding claim 7, Shinsky et al. disclose said setting means sets the image processing conditions in accordance with a region containing said at least one principal part (figures 4A-4B, column 3, lines 50-55, column 4, lines 20-27, column 5, lines 18-25, column 7, lines 13-67, column 9, lines 40-55). Okamoto fails to specifically disclose a point designating means and extracting means. However, Ejima discloses an information processing apparatus which includes a light pen 46 (point designating means, figure 4, column 4, lines 64-67). In addition, Ejima discloses that a particular individual (Mr. Yamada in figure 9A) is specified and enlarged and displayed on the LCD 6 (extracting means, figure 9B, column 10, lines 9-32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Ejima in order to make it easy for the user to edit the image displayed on the display.

9. Claims 6, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinsky et al. (US 6,285,398) in view of Hutchinson (US 4,973,149).

Regarding claim 6, Shinsky et al. fail to specifically disclose wherein said designating means comprises means for inputting a position of at least one point of said image displayed by said display means by an operator's line of vision. However, Hutchinson discloses a system for eye movement detection in which by using eye gaze alone, the system allow the user to select certain tasks from a menu on a screen (figure 1, column 2, lines 24-30). Therefore, it would have

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been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Hutchinson in order to permit activation of selecting tasks from a display with the selection being made by eye gaze directed at a set of display driven menus in the form of icons (column 2, lines 54-60). This let the user can work by hand on other task at the same time.

Regarding claim 11, Shinsky et al. disclose wherein said setting means sets the image processing conditions in accordance with the thus designated at least one region (column 3, lines 50-55, column 4, lines 20-27, column 5, lines 18-25, column 7, lines 13-67, column 9, lines 40-55). Shinsky et al. fail to specifically disclose wherein said display means is of a type that displays that it is divided into plurality of regions and said designating is of a type that designates at least one of the thus divided plurality of regions. However, Hutchinson discloses a system for eye movement detection in which includes display 18 (figure 1, column 7, lines 30-34), and by using eye gaze alone, the system allow the user to select certain tasks from a menu on a screen (figure 1, column 2, lines 24-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Hutchinson in order to permit activation of selecting tasks from a display with the selection being made by eye gaze directed at a set of display driven menus in the form of icons (column 2, lines 54-60). This let the user can work by hand on other task at the same time.

10. Claims 8-9, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinsky et al. (US 6,285,398) in view of Nakamura (JP 407074943).

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Regarding claim 8, Shinsky et al. fail to specifically disclose wherein said extracting means automatically extracts a region containing said at least one principal part in view of image continuity in accordance with an information about at least one point in said at least one principal part designated by a point designating means. However, Nakamura discloses an image forming device which includes extracting part 107 which extracts an image area based upon the existence of continuity of the image in the image area (See Constitution). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Nakamura in order to shorten the processing time of the original (Constitution).

Regarding claim 9, Shinsky et al. disclose wherein said at least one principal part of said image comprises a plurality of principal parts (plurality of areas within the picture, column 2, lines 56-59, the user can select a white area in the picture, column 3, lines 50-55) and a point designating means is of a type that designates one point in one of said plurality of principal parts (mouse 40, figure 3, column 2, lines 10-14).

Shinsky et al. fail to specifically disclose wherein extracting means automatically extracts at least one other principal part in said plurality of principal parts based on an information about said one point in said at one principal part designated by said point designating means. However, Nakamura discloses an image forming device which includes extracting part 107 which extracts an image area based upon the existence of continuity of the image in the image area (See Constitution). Therefore, it would have been obvious to one of ordinary skill in the art

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at the time the invention was made to modify the device in Shinsky et al. by the teaching of Nakamura in order to shorten the processing time of the original (Constitution).

Regarding claims 14-15, Shinsky et al. disclose wherein said display means is of a type that displays at least one of said at least one principal part having one point designated by said point designating means (a user uses mouse 40 to manipulate graphic images on the display 36, column 2, lines 10-13), and which further includes modifying means that modifies the region containing said at least one of said plurality of principal parts displayed by said display means (the proper white balance is achieved at block 332, figure 4A, column 7, lines 15-20).

Shinsky et al. fail to specifically disclose said at least one other principal part in said plurality of principal parts automatically extracted by said extracting means. However, Nakamura discloses an image forming device which includes extracting part 107 which extracts an image area based upon the existence of continuity of the image in the image area (See Constitution). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Nakamura in order to shorten the processing time of the original (Constitution).

11. Claims 10, 13, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinsky et al. (US 6,258,398) in view of Ejima (US 6,188,432) further in view of Nakamura (JP 407074943).

Regarding claim 10, Shinsky et al. fail to specifically disclose wherein extracting means automatically extracts a region containing the thus designated one principal part and a region

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containing at least one other principal part in view of image continuity based on an information about one point in said one principal part designated by a point designating means. However, Nakamura discloses an image forming device which includes extracting part 107 which extracts an image area based upon the existence of continuity of the image in the image area (See Constitution). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Nakamura in order to shorten the processing time of the original (Constitution).

Regarding claim 13, Shinsky et al. disclose wherein said display means is of a type that displays at least one of said at least one principal part having one point designated by said point designating means (a user uses mouse 40 to manipulate graphic images on the display 36, column 2, lines 10-13), and which further includes modifying means that modifies said at least one principal part displayed by said display means (the proper white balance is achieved at block 332, figure 4A, column 7, lines 15-20).

Shinsky et al. fail to specifically disclose said at least one principal part automatically extracted by said extracting means. However, Nakamura discloses an image forming device which includes extracting part 107 which extracts an image area based upon the existence of continuity of the image in the image area (See Constitution). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Shinsky et al. by the teaching of Nakamura in order to shorten the processing time of the original (Constitution).

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Regarding claim 16, Shinsky et al. disclose wherein said display means is of a type that displays at least one of the region containing the thus designated one principal part and the region containing at least one other principal part in said plurality of principal parts (a user uses mouse 40 to manipulate graphic images on the display 36, column 2, lines 10-13) which further includes modifying means that modifies said at least one principal part displayed by said display means (the proper white balance is achieved at block 332, figure 4A, column 7, lines 15-20).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Luong T Nguyen** whose telephone number is **(703) 308-9297**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber**, can be reach on **(703) 305-4929**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:
(703) 872 - 9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive, Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

LN

1/11/2004



LUONG T. NGUYEN
PATENT EXAMINER